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1951

December 20

SEP 03 1998

CONCORD, N.H.

Dr. Adrian Marshall, Secretary,  
Laconia Hospital Medical Staff  
Laconia, New Hampshire

Dear Dr. Marshall:

You have asked for a clarification of the law pertaining to authority for performance of autopsy upon the body of persons deceased under circumstances not warranting the direction of an autopsy by the county solicitor or Attorney General, having in mind hospital patients who are survived by no known relatives.

The county solicitor or Attorney General may direct an autopsy only in cases where either deems it necessary, by which I understand an autopsy is to be directed only where death is supposed to have occurred as the result of a possibly criminal act. In the absence of such circumstances, I know of no public official authorized to give permission for an autopsy.

The statutes do contain provision for disposition of unclaimed bodies, as follows:

R.L., c. 436, s. 24:

"Unclaimed Body. If the dead body is unidentified or unclaimed for a period of not less than forty-eight hours following the view thereof the referee shall deliver the body to the overseer of the poor in the town, or to the county commissioner, who shall decently bury the same, or, with the consent of the commissioners or the overseer, it may be sent to the medical department of Dartmouth College, to be used for the advancement of the science of anatomy and surgery, as provided for by law."

R.L., c. 258:

1. Request for Body. It shall be the duty of the county commissioners of any county, the mayor and aldermen of any city, the overseers of the poor of any town, the warden of the state prison and the keeper of any jail in the state, upon previous re-

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quest in writing by any physician or surgeon of this state (preference being given to instructors in medical schools established by law), to notify such physician or surgeon whenever the body of any person dying in their county, city, town, or in the state prison or a jail, required to be buried at the public expense, comes into their possession, charge or control, and to give permission to such physician or surgeon to take such body to be by him used within the state for the advancement of anatomical and medical science.

"2. Bond. Every person before receiving any such body shall give to the officers surrendering it a sufficient bond that it shall be used only in the state for the promotion of science, and in such manner as not to outrage or annoy the public; and that after the use allowed by law the remains shall be decently buried.

"3. Not Surrendered. When. No such notice need be given, nor shall any such body be surrendered, if any person or persons shall claim it within thirty-six hours after death, and take it away and bury it without expense to the town or county otherwise liable for the same; nor shall such notice be given or the body be delivered if such deceased person was a stranger or traveler who died suddenly, in which case the body shall be buried, unless it shall clearly appear that said stranger or traveler was a professional tramp going from place to place subsisting upon charity, in which case said body shall be disposed of in accordance with section 1; nor shall such notice be given or the body be delivered if such deceased person has served in the army or navy of the United States, and has been actually called into service in time of war and honorably discharged from said service.

"4. Penalty. Any person, upon whom duties are imposed by the provisions of this chapter, who shall neglect, refuse or omit to perform the same as hereby required, shall be fined not less than one hundred nor more than five hundred dollars."

I understand that c. 258 imposes upon the physician receiving the body the responsibility of arranging for burial. If the members of your staff can make suitable arrangements to comply with the terms of this chapter, I believe the chapter provides all the permission necessary in the class of cases to which you refer. I can see no reason why, by arrangement with the officers mentioned in section 1, you could not perform an autopsy, burial of the remains thereafter to be made in accordance with the procedure which would have been followed had no autopsy been performed.

Very truly yours,

Maurice M. Blodgett  
Deputy Attorney General